



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO CA 95814-2922

October 24, 2008

Regulatory Division (SPK-2008-00069)

Mr. Darold Heikens
California Dept. of Transportation
Environmental Management, M1
703 B Street / PO Box 911
Marysville, California 95901-0911

Dear Mr. Heikens:

We are responding to your July 7, 2008 request for a Department of the Army permit for the BUT 99 (Rio Bonito) Roadway Rehabilitation project. This approximately 139 +/-acre project involves activities, including the discharge of dredged or fill material, into waters of the United States to rehabilitate the roadway and improve safety. The site is located on State Route (SR) 99 between Post Miles 8.6 and 13.1, north of Rio Bonito Road to south of SR 162E, near the village of Richvale, Butte County, California.

Based on the information you provided, the proposed activity in approximately 22.62 acres of wetlands and other waters of the United States is authorized by Nationwide Permit Number 23, Approved Categorical Exclusion. The proposed impacts associated with this work includes; 0.859 acres of permanent impacts and 21.76 acres of temporary impacts to wetlands and other waters of the United States. Your work must comply with the general terms and conditions listed on the enclosed Nationwide Permit information sheets and the following special conditions:

1. To mitigate for the permanent loss of 0.11 acres of vernal pools at 3:1 ratio (0.33), 0.64 acres of seasonal wetlands at 1.5:1 ratio (0.96) and 0.01 acres of perennial wetlands at 2:1 ratio (0.02), you shall submit a check to this office in the amount of \$262,500.00 payable to the National Fish and Wildlife Foundation (NFWF). Prior to proceeding with any activity otherwise authorized by this permit, you must receive written notification from the Corps that your check has been deposited in NFWF's Sacramento District Wetlands Conservation Fund.
2. To compensate for the temporary impacts to approximately 1.12 acres of vernal pools and wetlands, you shall provide to this office prior to the start of construction, a site specific restoration plan outlining how you will restore the temporarily impacted water features back to their pre-existing condition. The plan shall include pre-construction topography maps and numbered and dated photographs of the water features which adequately depict their pre-existing condition. The plan must be approved by the Army Corps of Engineers prior to initiation of construction activities.

3. Upon completion of restoration activities, you shall submit post-restoration topography maps and numbered and dated photographs of the affected water features to adequately determine that the temporarily impacted areas have been restored to their pre-existing condition.

4. To compensate for the loss of approximately 0.28 acres of other waters of the United States, you shall create at least 0.28 acres of seasonal ditches and culverts adjacent to the modified roadway. The ditches and culverts shall be designed to the approximate current dimensions and shall be vegetated with native seed mix.

5. This Corps permit does not authorize you to take an endangered species, in particular giant garter snake (*Thamnophis gigas*), vernal pool fairy shrimp (*Branchinecta lynchi*), vernal pool tadpole shrimp (*Lepidurus packardii*), or designated critical habitat. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (e.g., an Endangered Species Act Section 10 permit, or a Biological Opinion under Endangered Species Act Section 7, with "incidental take" provisions with which you must comply). The Fish and Wildlife Service Biological Opinion (Number 1-1-06-F-0014, dated December 19, 2005) and amended Fish and Wildlife Service Biological Opinion (Number 1-1-06-F-0037, dated January 12, 2006), contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the Biological Opinion. Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with "incidental take" of the referenced Biological Opinion, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the Biological Opinion, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your Corps permit. The Fish and Wildlife Service is the appropriate authority to determine compliance with the terms and conditions of its Biological Opinion, and with the Endangered Species Act. The permittee must comply with all conditions of this Biological Opinion, including those ascribed to the Corps.

6. All terms and conditions of the October 1, 2008, Section 401 Water Quality Certification are expressly incorporated as conditions of this permit.

7. You shall follow the specifications and standards described in the Storm Water Pollution Prevention Plan (SWPPP) and/or Water Pollution Control Plan (WPCP), to prevent erosion and sedimentation during and after construction. Construction work within wetlands and vernal pools will be conducted during periods of low flow (April 15-October 15), outside the rainy season work window.

8. You shall employ Best Management Practices (BMP's) to avoid and minimize environmental impacts. Heavy equipment shall be required to operate on mats in vernal pools. Temporary fills must be removed in their entirety and the affected areas returned to preconstruction elevations and conditions. The affected areas must be re-vegetated with a native seed mix.

9. All equipment staging, including Temporary Construction Areas (TCA's), shall take place within Caltrans approved areas within the project boundary. Prior to construction implementation, you shall ensure all equipment staging, TCA's, demolition and disposal, excavation, off pavement detours,

and borrow and fill areas, have been evaluated under National Environmental Policy Act (NEPA), Section 401 and 404 of the Clean Water Act, Section 7 of the Endangered Species Act and Section 106 of the National Historical Preservation Act and all required permits have been obtained.

10. We understand the Federal Highway Administration is the lead federal agency for this project, and as such, will ensure the work complies with the National Environmental Policy Act, the Endangered Species Act, the National Historical Preservation Act and any other applicable federal laws. This authorization is contingent upon the permittee implementing all actions necessary to comply with these requirements.

11. To document pre- and post-project construction conditions, you shall submit numbered and dated photos of the permanent and temporary impact areas within the project site prior to project implementation and numbered and dated post-construction photos of the same areas within 30 days after project completion.

12. You must allow representatives from the Corps of Engineers to inspect the authorized activity and any mitigation, preservation, or avoidance areas at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

13. You shall have a qualified biologist, who is aware of the locations of all waters of the United States within the project boundary monitor construction activities. The monitor shall ensure no unauthorized activities occur within avoided waters. The monitor shall have the authority to stop work immediately if any unauthorized fill occurs in waters of the United States, including wetlands. Our office shall be contacted immediately.

14. To prevent unauthorized fills and unforeseen impacts, you shall, prior to proceeding with any activity otherwise authorized by this permit, install fencing and appropriate signage around the entire perimeter of avoided waters of the U.S. within the project area. All fencing surrounding avoidance areas shall allow unrestricted visibility of these areas to discourage vandalism, destruction or disturbance. An example of fencing includes chain link or similar type.

15. You must sign the enclosed Compliance Certification and return it to this office within 30 days after completion of the authorized work.

This verification is valid for two years from the date of this letter or until the Nationwide Permit is modified, reissued, or revoked, whichever comes first. Failure to comply with the General Conditions of this Nationwide Permit, or the project-specific Special Conditions of this authorization, may result in the suspension or revocation of your authorization.

We appreciate your feedback. At your earliest convenience, please tell us how we are doing by completing our customer survey at http://www.spk.usace.army.mil/customer_survey.html. Your passcode is "conigliaro".

Please refer to identification number SPK-2008-00069 in any correspondence concerning this project. If you have any questions, please contact Ms. Leah Fisher at our California North Branch, 1325

J Street, Room 1480, Sacramento, California, email leah.m.fisher@usace.army.mil, or telephone 916-557-6639. You may also use our website: www.spk.usace.army.mil/regulatory.html.

Sincerely,

A handwritten signature in cursive script, reading "Nancy A. Haley". The signature is written in dark ink and is positioned above the printed name and title.

Nancy A. Haley
Chief, California North Branch

Enclosures

Copy Furnished without enclosures:

Ms. Susan Bauer, California Department of Transportation, Office of Environmental Management M-1, 703 B Street / PO Box 911, Marysville, California 95901-0911

Mr. Peter Cross, U.S. Fish and Wildlife Service, Endangered Species Division, 2800 Cottage Way, Suite W2605, Sacramento, California 95825-3901

Mr. Dave Smith, U.S. Environmental Protection Agency, Wetlands Regulatory Office (WTR-8), 75 Hawthorne Street, San Francisco, California 94105-3901

Mr. Bill Orme, Chief, Water Quality Certification Unit, State Water Resources Control Board, 1001 I Street, Sacramento California 95814-2828

Ms. Eva Begley, California Department of Transportation, Environmental Planning/Resources Liaison, North Region, 2389 Gateway Oaks Drive, Suite 100, Sacramento, California 95833-4246

COMPLIANCE CERTIFICATION

Permit File Number: SPK-2008-00069

Nationwide Permit Number: 23, Approved Categorical Exclusion

Permittee:

Mr. Darold Heikens
California Dept. of Transportation
Environmental Management, M1
703 B Street / PO Box 911
Marysville, California 95901-0911

County: Butte

Date of Verification: October 24, 2008

Within 30 days after completion of the activity authorized by this permit, sign this certification and return it to the following address:

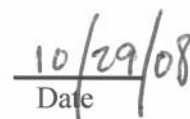
U.S. Army Corps of Engineers
Regulatory Division
California North Branch
1325 J Street, Room 1480, Sacramento, California
FAX 916-557-6877

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with the terms and conditions of the permit your authorization may be suspended, modified, or revoked. If you have any questions about this certification, please contact the Corps of Engineers.

* * * * *

I hereby certify that the work authorized by the above-referenced permit, including all the required mitigation, was completed in accordance with the terms and conditions of the permit verification.


Signature of Permittee


Date